

1 he actually volunteered to work at the radio station free of
2 charge because of his -- he was a religious person. I think
3 maybe an educator. I'm not sure on that. Had a very close
4 church tie and, and he volunteered.

5 Q Was he also connected to Concordia Seminary?

6 A I don't know that.

7 Q The next name that Mary Wickelman, and you indicate
8 there that the source was Concordia Seminary and in
9 parenthesis, wife of a student. How did she come to be hired?

10 A I'm not 100 percent sure, but I can say that two
11 things happened. Each year a new class of students came into
12 the seminary. A lot of these were married students and it
13 seemed like a lot of them came to the radio station and filled
14 out applications for any kind of jobs. Second thing that,
15 that happened with seminary students is occasionally the
16 station ran an advertisement in the daily student newsletter.
17 I don't know how many times that happened but they would be
18 referred that way. I might, I might add if I may -- a third
19 way that seminary students applied for positions was much like
20 Mr. Benko. They were aware of the radio station and wrote
21 letters to the radio station at any given time.

22 Q With regard to Ruth Clerkley, it indicates there the
23 referral source was station employee/through church. What
24 does that mean station employee/through church?

25 A That means that she had applied, that she had come

1 to know about the station by a employee of the radio station.
2 She was referred by an employee of the radio station.

3 Q Somebody working at the station told her about a
4 position that was open and she applied for it?

5 A That is correct.

6 Q And what is the reference to church then refer to?

7 A This particular employee who referred some people to
8 the radio station, Lula Daniels, her -- that's the church
9 station employee -- the church --

10 Q She knew this --

11 A -- through the church -- her church.

12 MS. SCHMELTZER: Excuse me, could the witness finish
13 his answer? Could the witness finish his answer? I don't
14 know if it was clear as to which church he was referring to.

15 WITNESS: The, the employee's church.

16 BY MR. ZAUNER:

17 Q I'm sorry, I couldn't hear the answer. It's a
18 little difficult sometimes here. I've got this blower over my
19 head which makes it difficult for me sometimes to, to hear
20 what your answers are.

21 A Sorry. The, the employee's church.

22 JUDGE STEINBERG: Let me just -- Ms. Clerkley --
23 there was an employee at the station and the employee and
24 Ms. Clerkley went -- Clerkley went to, to the same church and
25 that's how Ms. Clerkley became aware of the position?

1 WITNESS: I'm not for sure if they went to the same
2 church, but they had a church tie.

3 JUDGE STEINBERG: Okay.

4 BY MR. ZAUNER:

5 Q Could you identify Lula Daniels for us? She was an
6 employee at the station? Is that correct?

7 A She was an, she was an employee at the station
8 before I began working at the station and worked at the
9 station until her death which was I believe 1985.

10 Q Do you know when she was first hired at the station?

11 A She predated me. I'm not 100 percent sure what her
12 starting date was.

13 Q When you first met her do you know what her title
14 was?

15 A She was coordinator of worship programming.

16 Q Is that a department head position at the church --
17 at the station, I'm sorry?

18 A I believe when she was -- held that position,
19 depends on how you define department head, what the department
20 consists of, but in my opinion in, in her job, yeah, she
21 was -- it's department head.

22 Q When did you first meet Lula Daniels?

23 A I met her when she first -- when I began at the
24 radio station, 1975.

25 Q And, and you said in what year did she did? I'm

1 | sorry.

2 | A I think it was 1985.

3 | Q And she held --

4 | A Mid-'80s.

5 | Q Did she hold that position at the time that she
6 | died?

7 | A Yes.

8 | Q Up until the time that she died?

9 | A She did, yes.

10 | Q And would you tell us what the race of Lula Daniels
11 | was?

12 | A She was African-American.

13 | Q Going down the table in Attachment 6, the next name
14 | is Helen Richardson and there it indicates that her referral
15 | source was station employee. Is that -- when I see that on
16 | this chart that means somebody at this station told Helen
17 | Richardson about the position and she -- that's how she came
18 | to apply for it?

19 | A Yes.

20 | Q On the -- on page 2 of that attachment I want to
21 | call your attention to the fourth name down, Darrell Haake,
22 | H-A-A-K-E, and there it says Lutheran Church of Missouri
23 | Synod. What does that mean?

24 | A That the personnel department at the Lutheran
25 | Church/Missouri Synod would have referred the person to the

1 radio station. What does Lutheran Church/Missouri Synod mean
2 in that instance? I would be the, the international center,
3 the headquarters of the Lutheran Church/Missouri Synod.
4 Particularly, the personnel department.

5 Q Where was the international center located
6 physically vis-a-vis the station?

7 A The international center is about eight miles to the
8 west of the station.

9 Q Let me call your attention to page 3 of the
10 attachment and to the name Julie McMurty, M-C-M-U-R-T-Y, and
11 it's the fourth name down on the right and there it indicates
12 referral source was resume on file. What does that mean?

13 A That means that Ms. McMurty had applied at the radio
14 station some -- at some point previous to her hiring.

15 Q Let me call your attention to the last name on the
16 list, Tom Lauher, and there it just says referral source -- I
17 see, referral and then it's "Broadcasting" magazine. I
18 presume that entry means to indicate that Tom Lauher came to
19 apply through an ad in "Broadcasting" magazine?

20 A He had heard about the opening.

21 Q Let me call your attention to page 4, Ken Lombardi,
22 and it says referral source is the "Lutheran Witness."

23 A Yes.

24 Q And I believe -- what is the "Lutheran Witness"?

25 A "Lutheran Witness" is a national publication of, of

1 the publications department of the Lutheran Church/Missouri
2 Synod. It's a, it's a magazine format -- monthly magazine
3 format publication that, that is -- I think goes out to the
4 membership of the Lutheran Church/Missouri Synod.

5 Q Had the station placed an ad in the "Lutheran
6 Witness"?

7 A For Mr. -- for that, yes.

8 Q And the "Lutheran Witness" is a magazine that's
9 distributed to Lutherans generally. Is that correct?

10 A Missouri Synod Lutherans, yes. Missouri Synod
11 Lutherans.

12 Q Is there another synod of the Lutheran Church?

13 A During the license term?

14 Q No, I mean does -- there seems to be this emphasis
15 on Missouri Synod when I mention the Lutheran Church. I just
16 --

17 A There --

18 Q My question is, is there another synod in existence?

19 MS. SCHMELTZER: If you have questions of that
20 nature, actually Reverend Devantier is the better --

21 MR. ZAUNER: Okay.

22 MS. SCHMELTZER: -- person to ask.

23 WITNESS: I would agree with that.

24 BY MR. ZAUNER:

25 Q Okay, fine. I withdraw the question, Your Honor.

1 Going down to the fifth name on page 4, John Harwell, there it
2 says referral source walk-in. What does that mean, walk-in?

3 A That he came to the station and applied for a job.

4 Q Does that mean that there was no advertised position
5 to which she was applying?

6 A That would be correct. May I add something to that?

7 Q Sure.

8 A John Harwell was a person that wanted to do church
9 work and identified the radio station as a place to do it.

10 JUDGE STEINBERG: Are you skipping over Mr.

11 -- Reverend Hawkinson? That's got a little different entry.

12 BY MR. ZAUNER:

13 Q Reverend Mark Hawkinson who's just about John
14 Harwell. There is indicates the referral source is Lutheran
15 publications and it indicates in another column also
16 "Broadcasting" magazine. Can you tell us what the reference,
17 reference Lutheran publications refers to?

18 A In addition to the "Lutheran Witness," there are
19 other Lutheran publications that come from the headquarters of
20 the Lutheran Church. One of then is called "The Reporter,"
21 and it's more of a monthly publication directed to
22 professional church workers.

23 Q And did the station at times place advertisements
24 for positions in "The Lutheran Reporter"?

25 A To the best of my recollection, the stations did.

1 Q Did you also advertise for this position in
2 "Broadcasting" magazine?

3 A I believe we did, yes.

4 Q Let me call your attention to page 6, the name at
5 the top, James Bebo, B-E-B-O.

6 A Yes.

7 Q Indicates the referral source was the St. Louis
8 Broadcast Center. What does that refer to, the St. Louis
9 Broadcast Center?

10 A A school -- a professional school called the St.
11 Louis Broadcast Center.

12 Q Did the station contact the St. Louis Broadcast
13 Center with regard to the position that James Bebo was hired
14 for?

15 A The station had contacted the broadcast center for
16 sales openings. He, he knew about the station because of that
17 contact, yes.

18 Q How many referrals did the St. Louis Broadcast
19 Center make for this position that Mr. Bebo was hired for?

20 A I'm not for sure about that. I don't know.

21 Q Were there other applicants other than James Bebo
22 referred by the St. Louis Broadcast Center?

23 A For that position?

24 Q Yes.

25 A I don't know.

1 Q Let me call your attention to page 7, the first name
2 down, Cynthia Blades. And there it indicates that the
3 referral source was the Lutheran Employment Project. Could
4 you tell us how Cynthia Blades came to be referred by the
5 Lutheran Employment Project?

6 A We had contacted the Lutheran Employment Project to,
7 to announce an opening and they referred several people, she
8 being one of them.

9 Q Could you tell us what the Lutheran Employment
10 Project is?

11 A It is a social concern that seeks employment for
12 minorities.

13 Q And who, who runs this Lutheran Employment Project?
14 Is this a church operation?

15 A I'm not 100 percent for sure. I believe it's a --
16 like a pan-Lutheran organization including all Lutheran type
17 agencies and so forth. And it's, it's an -- as I -- to the
18 best of my knowledge it's an independent operation.

19 Q When you say pan-Lutheran, are you, are you
20 indicating then that there may be involvement of Lutherans
21 other than those who belong to the Missouri Synod?

22 A That is correct.

23 Q To your knowledge, does the Missouri Synod support
24 the Lutheran Employment Project in any way?

25 A I don't know that. I don't know.

1 Q Let me call your attention to John Oberman, the last
2 name on that page. You indicate he was an outside consultant
3 and transferred to station payroll. Does this mean that he
4 was a consultant to the stations?

5 A To one of the stations, yes.

6 Q What was the nature of his consultancy?

7 A He was engaged to develop -- he was associate
8 director or he worked in the development department. His
9 primary duties were to get money for the radio stations.

10 Q He was a fund raiser?

11 A He was a fund raiser.

12 JUDGE STEINBERG: Was he raising for just the AM or
13 for both? Because I see in the first column --

14 WITNESS: AM.

15 JUDGE STEINBERG: -- associate director, development
16 (AM).

17 WITNESS: He was primarily raising money for a
18 proposed satellite ministry that KFUD was beginning. So he
19 would -- I would classify it as AM.

20 BY MR. ZAUNER:

21 Q Let me call your attention to page 8. It indicates
22 there that Timothy Meeks was hired for the position of service
23 worker. Is that correct?

24 A That is right. Well, the job title maintenance.
25 Classification, service worker.

1 Q What is a service worker?

2 A Service worker is a --

3 JUDGE STEINBERG: Well, let's -- I think there's
4 some confusion because in the first column it says job title,
5 second column is the form 395-B classification.

6 MR. ZAUNER: I'm sorry.

7 JUDGE STEINBERG: So the service worker is the
8 Commission's classification, not necessarily the station's.

9 BY MR. ZAUNER:

10 Q You're correct. Then Mr. Meeks was hired as a
11 maintenance worker. Is that correct?

12 A That is correct.

13 Q It indicates that the referral source for Mr. Meeks
14 was the "St. Louis American." Could you tell us what the "St.
15 Louis American" is?

16 A It's a either weekly or twice a week newspaper
17 directed toward the African-American community.

18 Q And the station took out an ad in the "St. Louis
19 American"?

20 A Yes.

21 Q With regard to Bridgett Williams, there it indicates
22 the referral source is the "St. Louis Post Dispatch." Could
23 you tell us what the "St. Louis Post Dispatch" is?

24 A It's the major daily newspaper in St. Louis. The
25 only daily -- major daily.

1 JUDGE STEINBERG: Let me, let me point something out
2 to Mr. Zauner that I don't, I don't know if you noticed it or
3 not, if you, if you did just -- in Tab No. 6 -- in Appendix
4 No. 6. There's a column in the chart fourth over from the
5 left which indicates even though the referral source from
6 which the hire was made might have been the "St. Louis Post
7 Dispatch," the fourth column indicates that these -- there
8 were other sources contacted and this column is, is being
9 completed for some of the other people that you're inquiring
10 about. So, it's -- some of the earlier people, for instance,
11 Darrell Haake, H-A-A-K-E, on page 2, even though the referral
12 source indicates Lutheran Church/Missouri Synod, also contacts
13 with church headquarters and apparently an ad in the "Post
14 Dispatch." So it wasn't -- it appears from this chart that
15 the -- there were other efforts made and I didn't know if you
16 recognized that -- what that column indicated. I mean, I --

17 BY MR. ZAUNER:

18 Q That would be a good idea to ask the witness. Take
19 a look at page 8 of Attachment 6 and the fourth column from
20 the left has the heading all recruitment or referral source
21 contacted. Does that -- does the information that appears in
22 the boxes under that heading refer to sources that were used
23 in recruiting for the position for which the individual was --
24 who's identified to the right was eventually hired?

25 A Yes.

1 Q So, for example looking at the name Bridgett
2 Williams, in addition to placing an ad in the "St. Louis Post
3 Dispatch," the station also placed an ad in the "St. Louis
4 Sun," the "Sentinel," the "St. Louis American," etc. Is that
5 correct?

6 A Yes.

7 JUDGE STEINBERG: And that the, the entry in the
8 last column on the right, referral source, that is meant to
9 mean that is the particular recruitment source that this
10 individual sought or was hired --

11 WITNESS: Yes.

12 JUDGE STEINBERG: -- as a, as a result of seeing?
13 Okay. Because I think I know where you're going with this and
14 how it's going to be used and I, I just wanted to point out
15 that fourth column.

16 BY MR. ZAUNER:

17 Q Let me call your attention to page 9, there other
18 part-time hires. What did the station consider to be part-
19 time work at the station? Was part time defined in terms of
20 number of, numbers of hours per week that were worked at the
21 station?

22 A I would say that that would be correct, yes.

23 Q What was the dividing line between part-time and
24 full-time work at the station in terms of numbers of hours
25 worked?

1 A Right now it's 20.

2 Q Twenty?

3 A I, I presume it was that for most of these.

4 Q Did the station consider someone who worked more
5 than 20 hours a week a full-time employee?

6 MS. SCHMELTZER: Objection, because I just don't see
7 that it's relevant to the issues in this case. And I don't
8 know that the witness has the necessary documentation in front
9 of him to go into an extended inquiry in this area. It's
10 something that could have been gone into in depositions.

11 JUDGE STEINBERG: Mr. Zauner, what's your purpose?

12 MR. ZAUNER: Well, the purpose is to, is to test the
13 inclusion of these individuals in a list of part-time
14 employees. I just want to make sure that these employees
15 cannot be considered full time.

16 MS. SCHMELTZER: Well, he did say the cutoff was --

17 MR. ZAUNER: The Commission, the Commission has made
18 the distinction in cases between full time and part time based
19 upon the number of hours that they worked.

20 MS. SCHMELTZER: If Mr. Zauner is referring to
21 comparative cases, those cases do not articulate the same
22 standard that's used for EEO purposes.

23 MR. ZAUNER: I believe these are EEO cases.

24 MS. SCHMELTZER: You're thinking of comparative
25 cases.

1 JUDGE STEINBERG: I think what -- Mr. Honig?

2 MR. HONIG: If I may, Your Honor. It's such a hot
3 button issue with the Commission that I think that just to
4 make sure the record is complete it out to get out. In the
5 EEO inquiry that the Commission just announced one of the
6 questions in which the Commission invited consideration,
7 invited comments was the weight if any that it should place on
8 part-time employment because the argument on the one hand is
9 they hire part-time people because they don't -- that way they
10 don't -- but the other is that it is, it is to some extent a
11 showing of nondiscrimination or the absence of it is a showing
12 of discrimination. So, so, I think that sets out -- that
13 shows the Commission's interest and uncertainty and when you
14 have interest and uncertainty from the agency I think it's
15 important to get it in the record and let the parties argue.

16 MS. SCHMELTZER: Your Honor, I have no problem if
17 the questions are directed to show how many hours the part-
18 time people worked.

19 JUDGE STEINBERG: I think, I think the purpose of
20 this is to, is to define what is meant by part-time hires in
21 the caption of Attachment 6 beginning with page 9. I mean,
22 just simply find out what this chart represents. How many --
23 you know, what, what the station considered part time for the
24 -- for inclusion of names on this particular list so I'll
25 allow it for that. Isn't that what you were getting at?

1 MR. ZAUNER: That's, that's the purpose.

2 JUDGE STEINBERG: Yeah. If the witness is not
3 familiar with, with how the phrase was used perhaps he, he can
4 say so and we can get a different witness to tell us.

5 BY MR. ZAUNER:

6 Q I'm getting assistance here. Does, does the station
7 consider workers who work 20 hours or less to be part-time
8 employees?

9 A Twenty hours per week?

10 Q Right. Or less.

11 A Yes, it does. Could I --

12 JUDGE STEINBERG: Go ahead.

13 WITNESS: -- say something else? Many of these
14 part-time people here are part-time announcers. Many of them
15 I would say probably work five hours a week, maybe ten hours a
16 week --

17 BY MR. ZAUNER:

18 Q Did any of the individuals listed in, in this
19 exhibit beginning at page 9 running through the end of the
20 exhibit work more than 20 hours a week on a regular basis at
21 the stations?

22 A Not to my knowledge.

23 Q Let me call your attention to page 11 of your
24 testimony, back in the front of the book. You indicate in the
25 sentence beginning on line 14 which is on the top which is the

1 -- three up from the bottom, that "In August 1987 as well as
2 several times throughout 1989 the stations advertised in the
3 'St. Louis Dispatch' for salespersons." Why did the station
4 --

5 JUDGE STEINBERG: "Post Dispatch."

6 BY MR. ZAUNER:

7 Q I'm sorry, "St. Louis Post Dispatch." Why did the
8 station begin advertising in the "St. Louis Post Dispatch" in
9 August of 1987 for salespersons?

10 A Because first of all, we were hiring salespeople at
11 the time. And secondly, the "St. Louis Post Dispatch" has the
12 largest readership in the St. Louis area.

13 Q Let me call your attention to page 12. Six lines
14 from the top there's the statement that "The FM station made a
15 concerted effort to hire a minority salesperson." Did the
16 station contact minority organizations in its search for a
17 minority salesperson?

18 A I don't believe they contacted directly a minority
19 source. We used the "St. Louis Post Dispatch" and I believe
20 at the time we were contacting the broadcast center.

21 Q What was meant by a minority salesperson? Was it a
22 particular racial background or, or cultural heritage or sex
23 or what was the station actually looking for there?

24 A In this case I think minority background it would be
25 fair to say racial background.

1 Q Is it correct to say that you were looking for a
2 black or a Hispanic employee?

3 A I believe so.

4 Q Why was the station looking for such an employee at
5 -- specifically at this particular point in time? Was there
6 anything that precipitated that?

7 A I believe the station felt it needed more minority
8 representation on its staff.

9 Q Do you know why the station felt that way?

10 A I, I presume the station felt that way because it
11 felt the need to have more minorities.

12 JUDGE STEINBERG: We can, we can -- do you know who
13 made the, who made the decision to make a concerted effort to
14 hire a minority salesperson?

15 WITNESS: I believe the sales manager at the time
16 hired -- or the general manager at the time, excuse me,
17 Mr. Lauher, hired Ms. Perez so I would credit him with the --

18 JUDGE STEINBERG: Okay. Do you, do you have any
19 personal knowledge as to -- do you yourself have any personal
20 knowledge as to the reasons for this effort?

21 WITNESS: I think the station wanted more
22 minorities.

23 JUDGE STEINBERG: Okay. That's your understanding?

24 WITNESS: Yes.

25 JUDGE STEINBERG: Okay.

1 BY MR. ZAUNER:

2 Q Let me call your attention to page 13, paragraph 19.
3 There you indicate that Arnold & Porter had sent a number of
4 letters to the station on EEO matters and you say, "Nothing
5 appeared to alert the stations to any particular
6 deficiencies." But you go on to state that in April of 1989
7 the stations sought specific advice on the issue -- perhaps
8 not in April of 1989, but around about then apparently the
9 stations sought specific advice on that issue. Do you know
10 why the station went to Arnold & Porter around April of 1989
11 to get advice on that issue?

12 A The stations at the time were reevaluating their
13 program and hiring practices and so forth and the, the station
14 had made an effort via Mr. Lauher the manager at the time to
15 get more to speed on the, the continuing new rulings that were
16 coming down from the FCC. In 1989 I guess, in 1988 as well,
17 there was a lot of activity in the trades and about either new
18 rulings or proposed rulings and that stations needed to pay
19 attention to them.

20 MR. ZAUNER: Your Honor, could we take a five-minute
21 break at this point? My throat is getting a little dry. I
22 just wanted to get a drink of water and I will be back.

23 JUDGE STEINBERG: Okay. We'll take a break.

24 (Whereupon, off the record at 11:30 a.m. Back on
25 the record at 11:35 a.m.)

1 JUDGE STEINBERG: On the record. Mr. Zauner?

2 BY MR. ZAUNER:

3 Q Mr. Stortz, I'd like to call your attention to
4 Church Exhibit 8, Attachment 3.

5 MS. SCHMELTZER: Exhibit 8?

6 JUDGE STEINBERG: Ms. Cranberg.

7 MR. ZAUNER: 8, Attachment 3.

8 MS. SCHMELTZER: Okay. He doesn't have that in
9 front of him. You've got the microphone covered.

10 MR. ZAUNER: I've got the microphone covered here.

11 Let me --

12 JUDGE STEINBERG: Start again.

13 BY MR. ZAUNER:

14 Q I'll -- just I'll start again here. Mr. Stortz, I'd
15 like to call your attention to Church Exhibit 8, Attachment 3.

16 A Okay.

17 Q Do you recall having received that letter while you
18 were acting general manager at station KFUD?

19 A Well, to clarify, I was not acting general manager
20 at that time.

21 Q Do you recall having received that letter? Let me
22 just ask you that.

23 A I believe I recall having received it, yes.

24 Q Did you take the advice of counsel to review the FCC
25 rules pertaining to equal employment opportunities to ensure

1 compliance with requirements?

2 A My practice at, at the time when I received this --
3 these letters, although addressed to me I was not the general
4 manager at the time, I would give them to the general manager
5 and Mr. Lauher, whoever it was at the time, Mr. Lauher was
6 reevaluating the station's EEO program and developing --
7 reassessing and trying to develop a better program.

8 Q Let me call your attention to --

9 JUDGE STEINBERG: Wait. Let me, let me point
10 something out. The letter that you were shown, Exhibit 8,
11 Attachment 3, had an April 6, 1988 date on it. In Mr.
12 Lauher's testimony Church Exhibit 6, page 2, paragraph 4, he
13 states "In approximately the late-fall of '88," that's when he
14 went to the Missouri Broadcaster's Association meeting and
15 heard about Matthew Leibowitz's presentation and I think it
16 was after that that he did what he did in terms of evaluating
17 the station's EEO program. So, the witness has testified that
18 -- the way I heard it was that he gave the letter -- that it
19 would have been your practice to give orders of this nature to
20 Mr. Lauher. Is that correct?

21 WITNESS: Yes.

22 JUDGE STEINBERG: And that your understanding was
23 that Mr. Lauher was reevaluating the, the station's EEO
24 program?

25 WITNESS: Correct.

1 JUDGE STEINBERG: But that didn't happen until long
2 after Exhibit 8, Attachment 3, was written. Do you -- why,
3 why don't you take a look -- another look at Exhibit 8,
4 Attachment 3 in light of what I told you. You have to take my
5 word for it Mr. Lauher testified to. Even though the counsel
6 can't tell you what he testified to, I can. And Mr. Lauher
7 can't, but I think it's -- I don't want the record to be
8 confused. I want -- and I, I want to give you an opportunity
9 to address that. If you want to do it -- if you want to think
10 about it and it in redirect, that's okay, but I just wanted to
11 point out the date sequence.

12 WITNESS: I'll answer it now.

13 JUDGE STEINBERG: Okay.

14 WITNESS: I, I understand your, your dates. I, I
15 didn't mean that he -- on April 7th Mr. Lauher began to take
16 immediate action. This would have been in addition to other
17 information and the trades and so forth that were, were
18 more -- had more information on the new rules and, and
19 requirements and it would have been just another part of
20 Mr. Lauher's desire to improve the station's EEO program.

21 JUDGE STEINBERG: Mr. Zauner?

22 BY MR. ZAUNER:

23 Q During the time that you were general manager of the
24 FM station, did you have any communications with Arnold &
25 Porter concerning the station's EEO program?

1 MS. SCHMELTZER: When you say communications,
2 counsel, do you mean in writing?

3 BY MR. ZAUNER:

4 Q Did you initiate any communication with Arnold &
5 Porter concerning the station's EEO program? Did you ever
6 call Arnold & Porter or write them a letter?

7 A Regarding the --

8 Q Station's EEO program.

9 A I do not recall that I did.

10 Q Calling your attention to page 13 of your testimony
11 again, that's the thick book. Talking about the Arnold &
12 Porter letters, you say, "Nothing in them appeared to alert
13 the stations to any particular deficiency they had." Did they
14 alert you to any general deficiency at the station?

15 A I think as time went on those letters alerted us to
16 a greater need for an improved EEO program.

17 Q Was this a general awareness that came about over
18 time that you're referring to?

19 A General awareness? I think so, yes.

20 Q Would you say that this awareness culminated when
21 Mr. Lauher attended the Missouri Broadcaster's Convention in
22 1988 and heard Matthew Leibowitz speak?

23 A I wouldn't say it culminated then, but I would say
24 that was a major point of information for Mr. Lauher.

25 Q Was the April 1989 Arnold & Porter letter concerning

1 the "King's Garden" case a result of Mr. Lauher's having
2 attended that 1989 Missouri Broadcaster's Association meeting?

3 MS. SCHMELTZER: I'm not sure -- I guess I object
4 because I'm not sure he's competent to testify to that.

5 MR. ZAUNER: The same, the same question --

6 MS. SCHMELTZER: I mean, he's already asked for his
7 knowledge.

8 MR. ZAUNER: -- came to my mind but I, I -- but the
9 testimony is in his paragraph 13. In fact, let me just think
10 about the question for a second if I may. I'm going to
11 withdraw the question. I don't think it's really necessary to
12 get that piece of information.

13 JUDGE STEINBERG: Well, obviously if you read, if
14 you read the April 4th letter it, it's obvious from the first
15 paragraph that there was a discussion with Mr. Lauher and
16 concerning whatever the letter says it concerns.

17 BY MR. ZAUNER:

18 Q Let me call your attention to page 17. You
19 indicated there at the seventh, seventh line down from the top
20 that you believed that -- the first sentence in section four
21 of the renewal application did not need to be changed and that
22 that sentence stated, "When vacancies occur it is the policy
23 of KFUE and KFUE-FM to seek out qualified minority and female
24 applicants." You go on to say that you believe this statement
25 was accurate. What was -- during the license renewal time

1 what was the policy of KFUE and KFUE-FM insofar as seeking out
2 qualified minority and female applicants?

3 MS. SCHMELTZER: Objection for two reasons. First
4 of all, in his testimony he says at that time so this -- you,
5 you stopped reading and didn't -- he qualified his sentence
6 and you just stopped. My second objection is that the, the
7 Commission's form itself doesn't speak to the whole license
8 period, it's vague on what --

9 BY MR. ZAUNER:

10 Q Let me, let me do it this way. Let me, let me try
11 another method of approach. Let me call your attention to
12 Attachment 16 and call your attention to page 7 thereon. Now,
13 Attachment 16, 16 is the application for renewal of license
14 for KFUE and KFUE-FM. Let me also call your attention at the
15 same time to Mass Media Bureau Exhibit 1 and page 6 thereof.

16 MS. SCHMELTZER: That's the 1982 license renewal?

17 MR. ZAUNER: That, that is correct.

18 JUDGE STEINBERG: Now you've got whatever
19 conceivable period we're talking about coverage.

20 BY MR. ZAUNER:

21 Q That's right. I'm going to call your attention to
22 the section four, recruitment section of those two renewal
23 applications and I notice -- do you have both of them before
24 you at the present moment?

25 A Yes.